

REMARKS

This application pertains to a novel plastic film comprising a gas barrier layer which has a oxygen impermeability which is largely independent of moisture content of the packaged product or the surroundings (page 2, first paragraph).

Claims 1-21 and 23-26 are pending; claim 22 being cancelled by this amendment and claims 24-26 being added. The added claims merely recite narrow ranges of limitations which were cancelled from original claims that recited both broad and narrow ranges of the same limitations. Accordingly, no new matter is added.

The claims have also been amended to recite a range of 20-40% EVOH in the gas barrier layer of claim 1. Support can be found at page 4, line 18. Claims 6 and 7 have been amended to recite 30% as the lower limit for the amount of EVOH included in the gas barrier layer. Support for the 30% lower limit is found in the Examples.

Claims 1-23 stand rejected under 35 U.S.C. 112, second paragraph, for reasons more particularly indicated in the office action. Each of the reasons given for this rejection have been carefully considered by Applicants, and appropriate amendments made to overcome them. It is believed that the amendments have obviated the issues raised in this rejection, and the rejection of claims 1-23 under 35 U.S.C. 112, second paragraph should now be withdrawn.

Claims 1-3, 5-6, 8, 11-13 and 15-22 stand rejected under 35 U.S.C. 102(b) as anticipated by Ramesh et al (US 5,763,095).

The amounts of EVOH included in Applicants' film has now been amended, and the amended amounts are not disclosed by Ramesh. The maximum amount disclosed by Ramesh is 10% (Examples 11 and 12). Applicants' claims cannot therefore be seen as anticipated by Ramesh.

In addition, the Ramesh reference teaches that EVOH loses much of its oxygen barrier properties with increasing relative humidity, and that the addition of EVOH to his nylon copolymer layer is useful only at low relative humidities (col. 5, first paragraph). This would teach those skilled in the art away from including EVOH in their gas barrier layers where higher humidities could be expected.

In the face of this teaching of Ramesh, Applicants' discovery that the oxygen barrier properties of their film is essentially unaffected by increasing the humidity from 0% to 85%, as proven by their examples (tables 1A & 1B), represents truly unexpected advantages over the teachings of Ramesh. The Ramesh reference therefore neither teaches nor suggests the films defined by Applicants' claims or their use.

The rejection of claims 1-3, 5-6, 8, 11-13 and 15-22 under 35 U.S.C. 102(b) as anticipated by Ramesh et al (US 5,763,095) should accordingly now be withdrawn.

Claims 2-7, 9-10 and 23 stand rejected under 35 U.S.C. 103(a) as obvious over

Ramesh et al (US 5,763,095).

For the reasons discussed above, however, Ramesh cannot in any way be seen as suggesting the films of Applicants' claims or their use, and the rejection of claims 2-7, 9-10 and 23 under 35 U.S.C. 103(a) as obvious over Ramesh et al (US 5,763,095) should now be withdrawn.

Claim 14 stands rejected under 35 U.S.C. 103(a) as obvious over Ramesh et al (US 5,763,095) in view of Vadhar (US 6,333,061). The Examiner relies on Vadhar for a teaching of a coloring agent. No coloring agent could possibly overcome the differences discussed above, and the rejection of claim 14 under 35 U.S.C. 103(a) as obvious over Ramesh et al (US 5,763,095) in view of Vadhar (US 6,333,061) should be withdrawn.

In view of the present amendments and remarks it is believed that claims 1-21 and 23-26 are now in condition for allowance. Reconsideration of said claims by the Examiner is respectfully requested and the allowance thereof is courteously solicited.

CONDITIONAL PETITION FOR EXTENSION OF TIME

If any extension of time for this response is required, Appellants request that this be considered a petition therefor. Please charge the required petition fee to Deposit Account No. 14-1263.

ADDITIONAL FEE

Please charge any insufficiency of fee or credit any excess to Deposit Account

No. 14-1263.

Respectfully submitted,
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